

DOCKET NO.: MSFT-0179/150657.1
Application No.: 09/671,643
Office Action Dated: June 25, 2003

PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116

REMARKS/ARGUMENTS

The foregoing Amendment and the following Remarks are submitted in response to the FINAL Office Action mailed June 25, 2003 (Paper No. 8) in connection with the above-identified application and are being filed within the three-month shortened statutory period set for a response by the Office Action.

Claims 82-97 are pending in the present application. Claims 1-81 have been canceled, and new claims 82-97 have been added. Claims 82-97 are similar to now-canceled claims 66-81. Applicant respectfully requests reconsideration and withdrawal of the rejection of the application, consistent with the following remarks.

The Examiner has rejected now-canceled claims 66-77 and 80-81 under 35 USC § 103(a) as being obvious over Nagahama (U.S. Patent No. 5,636,277) in view of Krishnan (U.S. Patent No. 6,073,124). Applicant respectfully traverses the § 103(a) rejection insofar as it may be applied to new claims 82 et seq.

Independent claim 82 recites a method of issuing digital licenses from a licensor for a corresponding piece of digital content, where the content was originally issued by a retailer. In the method, the licensor receives a first license request for a first license from a first customer in connection with the content, where the first customer has received a copy of the content from the retailer. The first request includes retailer information associated with the corresponding piece of digital content and identifying the retailer. The licensor receives a payment from the first customer in connection with the first license request, retrieves the retailer information from the first license request and identifies the retailer therefrom, and credits the identified retailer for a portion of the payment received in connection with the first license request.

The licensor then receives a second license request for a second license from a second customer in connection with the content, where the second customer having received a copy of the content from the first customer. The second request includes first customer information associated with the corresponding piece of digital content and identifies the first customer. The licensor receives a payment from the second customer in connection with the second license request, retrieves the first customer information from the license request and

identifies the first customer therefrom, and credits the first customer for a portion of the payment received in connection with the second license request.

Once again, it is to be appreciated that, as set forth in the specification of the present application at about page 57 thereof, there are a multitude of scenarios in which a second customer may obtain a piece of digital content and also obtain a corresponding yet separate digital license. For one example, the second customer may visit a retailer and upon payment of a fee thereto obtain the aforementioned content and the license from a licensor. For another example, the second customer may obtain the content as originally distributed by way of a retailer or as re-distributed from an intermediary such as a first customer, and then visit a licensor and upon payment of a fee thereto obtain the license.

As used here, a retailer is any sales agent operating a sales site for 'selling' the content, and a licensor is any licensing agent that operates a licensing site for granting a license that permits use of the content. In any case, the party collecting the payment (i.e., the licensor) likely is expected to share the proceeds with the other party (i.e., the retailer). Also, if the obtained content is re-distributed by a first customer to a second customer and the second customer obtains its own license by way of payment to the licensor, the licensor likely wishes to share the proceeds from that payment with the first customer, as a reward for the referred business. In such a situation, then, the mechanism of the present invention as set forth in the recited claims is necessary.

The Nagahama reference discloses a system for licensing a software product to a purchaser thereof. In particular, and as best seen in Fig. 4, in the Nagahama system, a software vendor creates and encrypts the product and packages the product to include content info such as a decryption key (steps s1 and s2). As the packaged product is distributed through a wholesaler and retailer to an end-user, wholesaler and retailer shop information is added to the package (steps s4 and s7), and the retailer upon distributing the package to the end-user also sends the end-user the decryption key (steps s8 and s10) presumably in exchange for a payment. The retailer then sends payment information including product information and shop information to the wholesaler (step s12), and the wholesaler in turn sends payment information including product information and shop information to the vendor (step s15).

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Significantly, and as should be appreciated, the Nagahama system does not in actuality issue a digital license to a first or second customer for the corresponding product, as is required by claim 82. Thus, and as the Examiner concedes, the Nagahama reference does not disclose or suggest that the Nagahama end-user sends a license request for a license, where such a license request includes retailer information or first customer information associated with the corresponding piece of digital content and identifying the retailer or first customer, as is also required by such claim 82. Thus, the Nagahama system cannot receive retailer information or first customer information from such a license request and cannot identify the retailer or first customer from any such information and credit same, as is further required by such claim 82.

Nevertheless, the Examiner argues that the Krishnan reference discloses such features. The Krishnan reference discloses a system for facilitating digital commerce wherein a client obtains content from a content server and then obtains an electronic license certificate (ELC) or license from a licensing broker / server. However, neither the Krishnan nor the Nagahama references alone or combined even contemplates that a first customer having obtained a first license for corresponding content based on a first license request should or could re-distribute the content to a second customer as is required by claim 82, or that the second customer likewise would obtain a second license for corresponding content based on a second license request, as is also required by claim 82. More significantly, neither the Krishnan nor the Nagahama references alone or combined even contemplates that based on the first request from the first customer the retailer should or could be credited for a portion of the payment received in connection therewith AND that based on the second request from the second customer the first customer should or could be credited for a portion of the payment received in connection therewith, all as is required by claim 82.

Thus, Applicant respectfully submits that neither the Nagahama nor the Krishnan references, alone or combined, disclose or suggest the subject matter recited in claim 82. Accordingly, and for all the aforementioned reasons, Applicant respectfully submits that the Nagahama reference and the Krishnan reference cannot be applied to make obvious such claim 82 or any claims depending therefrom, including claims 66-77, 80, 81, 82-93, 96, and 97. Thus, Applicant respectfully requests reconsideration and withdrawal of the § 103(a) rejection.

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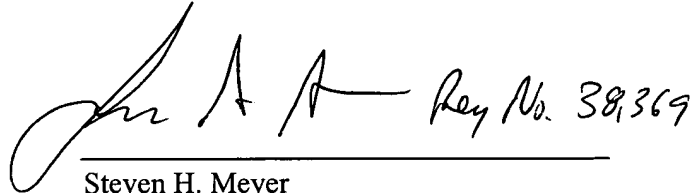
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The Examiner has rejected now-canceled claims 78 and 79 under 35 USC § 103(a) as being obvious over the Nagahama and Krishnan references, and further in view of Powell (U.S. Publication No. 2001/0032189). Applicant respectfully traverses the § 103(a) rejection insofar as it may be applied to new claims 94 and 95.

Applicant respectfully submits that since independent claim 82 has been shown to be non-obvious, then so too must all claims depending therefrom be non-obvious, including claims 94 and 95, at least by their dependency. Thus, Applicant respectfully requests reconsideration and withdrawal of the § 103(a) rejection.

In view of the foregoing Amendment and discussion, Applicant respectfully submits that the present application, including claims 82-97, is in condition for allowance, and such action is respectfully requested.

Date: September 25, 2003



Handwritten signature of Steven H. Meyer, including the text "Reg No. 38,369" written to the right of the signature.

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